REMARKS

Claims 1-11, 26-31, 35, and 37-48 are pending. Claims 1, 26, and 38 are independent claims. Claims 1 and 26 are amended herein. No claims are canceled. Claims 38-48 are newly added. For at least the reasons set forth below, all pending claims are believed to be in condition for allowance.

In the Office Action, claims 1-11 and 26-31 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by EP 1515496 A2 to Spaur et al ("European Spaur"). Claims 35 and 37 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over European Spaur in view of purportedly "well-known prior art."

European Spaur does not qualify as prior art under Section 102(b) because that reference was published after, and not more than a year prior to, the priority date of the present application. Specifically, European Spaur was published March 16, 2005. This application was filed February 17, 2004. However, European Spaur appears to include the disclosure originally made in the application for U.S. Patent No. 5,732,074 to Spaur et al. ("Spaur"). European Spaur claims priority to Spaur. Spaur issued on March 24, 1998. Therefore, to expedite prosecution, in the present paper Applicants provide arguments explaining the inapplicability of Spaur to the presently pending claims. Applicants note that Applicants cited Spaur in an Information Disclosure Statement (IDS) filed with this application. The Examiner considered Spaur as reflected by the Examiner's initials and signature on the afore-mentioned IDS accompanying the Office Action dated September 23, 2004.

In view of the following arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, including without limitation the instance discussed below, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

I. Section 102 Rejections

A. Independent claims 1, 26, and 38

Claim 1 recites in part that "the processor is programmed to retrieve, via the first wireless communications device, directly and not via a controller in the equipment, at least one measurement from a second wireless communications device connected to at least one measurement device." Spaur fails to teach or suggest at least "a second wireless communications device connected to at least one measurement device" as recited in claim 1, much less does Spaur teach or suggest retrieval of any data "via the first wireless communications device, directly and not via a controller in the equipment . . . from a second wireless communications device connected to at least one measurement device."

Spaur discloses no more than communication of vehicle data to a remote computer "using an apparatus compatible with standardized network communication links." (Spaur, Abstract.) Thus, Spaur discloses that communications between a controller and devices in a vehicle take place via known data network protocols, such as CAN (controller area network). (E.g. Spaur, Figs. 1-3; col. 3, lines 57-65.) For example, Spaur's Figure 1 shows a wireless device 18 in communication with a vehicle controller 30, which is in turn in communication with vehicle devices 50. Moreover, Spaur explains that:

> With regard to providing information to a remote station 10, a substantially symmetrical relationship exists among the elements of FIG. 1. That is, the controller 30 is able to prepare information for sending to a remote station 10, including data or other information available from one or more of the vehicle devices 50 using the vehicle standardized network 40. Such information is sent to the wireless device 18 through its interface 22 for transmission using the vehicle airlink transfer protocol modem 20 over the airlink to the remote station 10 by way of the remote standardized network 14 in combination with the remote airlink transfer protocol modem 16.

In other words, Spaur depends on a central processor in a vehicle to retrieve data from devices in the vehicle. (See Spaur, col. 3, line 57- col. 4, line 57.) In fact, Spaur fails to disclose any direct communication of data from devices in a vehicle to a remote wireless device at all. Therefore,

Spaur cannot teach or suggest retrieval of any data "via the first wireless communications device, directly and not via a controller in the equipment."

In fact, Spaur does not even teach or suggest any "wireless communications device connected to at least one measurement device." Moreover, because Spaur teaches that all communications occur through a central controller in a vehicle, as described above, Spaur would have had no reason to implement a "wireless communications device connected to at least one measurement device."

As Applicants explained in their Specification, Spaur "describes communication of vehicle data to a remote computer, but discloses that the communications take place via known data network protocols, such as CAN." (Specification, paragraph 0002.) Applicants further explained that "at present, a user must depend on intermediate mechanisms, such as a central processor or CAN communications, to retrieve data from a sensor on a piece of equipment such as a vehicle." (Id., ¶ 0003.) Thus, by teaching that communications between a device in a vehicle, and a remote wireless device, occur through a vehicle's central controller, Spaur actually teaches away from the recitation in claim 1 that "the processor is programmed to retrieve, via the first wireless communications device, directly and not via a controller in the equipment, at least one measurement from a second wireless communications device connected to at least one measurement device."

For at least the foregoing reasons, claim 1, along with the claims depending therefrom, are allowable over Spaur. Independent claims 26 and 38, and all claims depending therefrom, are also allowable over Spaur for similar reasons.

C. Dependent Claims 4 and 40

Claim 4 depends from claim 1 and further recites that "the processor is further programmed to configure the measurement device." Claim 40 depends from claim 38 and recites "sending a third communication from the processor for configuring the measurement device." Contrary to the Examiner's allegation (Office Action, page 3), Spaur does not teach or suggest the subject matter recited in claim 4. In fact, the portion of Spaur cited by the Examiner simply discloses that a direct communications port may be provided to a vehicle CAN when a wireless device is unavailable. (Spaur, col. 10, line 65 – col. 11, line 14.) Spaur does not provide any teaching or suggestion of a processor "programmed to configure the measurement device." In fact, Spaur does not appear to

provide any teaching or suggestion of configuring a measurement device at all. For at least these reasons, claims 4 and 40 are each separately patentable.

D. Dependent Claims 11 and 48

Claim 11 depends from claim 1 and further recites that "the wireless communications device is selectively attached to at least one second measurement output device." Claim 48 depends from claim 38 and similarly recites "selectively attaching the second wireless communications device to at least one second measurement device." Spaur does not teach or suggest a wireless communications device attached to any measurement output device, as explained above. For at least this reason, Spaur cannot teach or suggest the subject matter recited in claim 4. Further, Spaur certainly includes no teaching or suggestion of a wireless communications device that is "selectively attached to at least one **second** measurement output device." (Emphasis added.) The portion of Spaur cited by the Examiner simply discloses that a direct communications port may be provided to a vehicle CAN when a wireless device is unavailable. (Spaur, col. 10, line 65 – col. 11, line 14.) Spaur's disclosure includes no teaching or suggestion of attaching a wireless communications device to first or second measurement output devices. Therefore, for at least the foregoing reasons, claims 11 and 48 are each separately patentable.

II. Section 103 Rejections – Claims 35, 37, and 48

Claims 35, 37, and 48 depend from claims 1, 26, and 38 respectively. Claims 35 and 37 each recite that "the at least one measurement device is selectively detachably connected to a component in the equipment." Claim 48 includes a similar recitation. In the non-final Office Action dated July 31, 2007, the Examiner took Official Notice in rejecting claims 35 and 37. Applicants disagreed with the taking of Official Notice, and seasonably requested for the Examiner to provide an affidavit in support of the Official Notice in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03. (Response to Office Action dated July 31, 2007, pages 5-6.) MPEP § 2144.03 further states that "[i]f applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained." The present Office Action (dated March 26, 2008) is the next Office Action (to which this paper is in response). The Examiner failed to provide an affidavit to support the taking of Official Notice in the Office Action.

Instead of providing the required support for Official Notice, the Examiner repeated the unsupported taking of Official Notice that "wherein the at least one measurement device is selectively detachably connected to a component in the equipment" is "well-known in the art." (Office Action, page 5.) Because the Examiner failed to provide any documentary evidence in the Office Action to support the taking of Official Notice, the rejection of claims 35 and 37 must be withdrawn and those claims allowed. Further, claim 48, reciting similar subject matter, likewise is separately patentable over the references of record.

CONCLUSION

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue. It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account No. 18-0013, under Order No. 65856-0054, from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

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Respectfully submitted,

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